

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

<b>DANIEL GRAHAM,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 1:22-cv-891</b>
	)	
<b>FREEDOM FOREVER TEXAS, LLC,</b>	)	
	)	
<b>Defendant.</b>	)	

**NOTICE OF REMOVAL**

Defendant, Freedom Forever Texas, LLC (“Freedom Forever”), expressly preserving all defenses, and timely files this Notice of Removal, hereby removing this civil action, styled *Daniel Graham v. Freedom Forever Texas, LLC*, Case No. J2-CV-22-003721, from the Justice Court of Travis County, Texas (the “State Court Action”), pursuant to 28 U.S.C. §§ 1331 and 1441 to the United States District Court for the Western District of Texas, Austin Division.

**Nature of the Action and State Court Proceedings**

1. In the State Court Action, Plaintiff Daniel Graham (“Plaintiff”) alleges: “In July 2022, Freedom Forever’s agents called my number which is registered on the DNC six times to solicit solar services in violation of the TCPA.” Plaintiff seeks an award of money damages in the amount of \$6,000.

2. On August 15, 2022, Plaintiff filed the State Court Action, which is currently pending as Case No. J2-CV-22-003721. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders on file in the state court are attached as Exhibit A.

3. Freedom Forever was served with the summons and complaint on August 19, 2022. Accordingly, this Notice of Removal is timely filed.

### **Original Jurisdiction**

4. The Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1331 as this is a civil action “arising under the Constitution, laws, or treaties of the United States.” Specifically, Plaintiff’s Complaint purports to assert a claim under the TCPA and seeks monetary relief for the alleged TCPA violations.

5. Because Plaintiff’s TCPA claim is a claim “arising under the . . . laws . . . of the United States,” this Court may exercise jurisdiction over this matter pursuant to 28 U.S.C. § 1331. *See, e.g., McCarrell v. Offers.com LLC*, 2019 WL 3220009, \*2 (W.D. Tex. July 16, 2019) (denying remand motion where defendant “removed the case . . . on federal question jurisdiction under 28 U.S.C. § 1331 because [plaintiff] raises claims under . . . TCPA”).

### **Venue and Procedure**

6. Pursuant to 28 U.S.C. § 1446(b), this Notice is timely filed within thirty (30) days of service of the State Court Action on Freedom Forever. Freedom Forever was served with the Summons and Complaint on August 19, 2022.

7. As of the date of removal, Freedom Forever has not filed a responsive pleading to the Complaint.

8. Pursuant to 28 U.S.C. § 1441(a), this is the appropriate Court to receive this Notice of Removal, as the State Court Action is pending in the Travis County, Texas, which is within the Western District of Texas, Austin Division. Therefore, this Court is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

9. Pursuant to 28 U.S.C. § 1446(a), Freedom Forever attaches true and correct copies of all Pleadings served on it in the State Court Action as Exhibit A.

10. Pursuant to 28 U.S.C. § 1446(d), Plaintiff will be served with a copy of this Notice of Removal, and a copy of this Notice of Removal will be filed with the Clerk of the Justice Court of Travis County, Texas.

11. In light of the foregoing, removal of this case to the United States District Court for the Western District of Texas, Austin Division, is proper.

12. In filing this Notice of Removal, Freedom Forever does not waive, and expressly preserves, any and all defenses to the Complaint, including, but not limited to, defenses of personal jurisdiction and improper venue, and reserves the right to move the Court concerning any such defenses upon removal to this Court.

WHEREFORE, Freedom Forever respectfully notifies this Court, the state court, and Plaintiff of the removal of this action from the Justice Court of Travis County, Texas, to the United States District Court for the Western District of Texas, Austin Division.

RESPECTFULLY SUBMITTED on September 2, 2022.

/s/ William Akins  
William J. Akins  
State Bar No. 24011972  
FISHERBROYLES LLP  
510 Congress Ave. Suite 150  
Austin, Texas 78701  
Telephone: (214) 924-9504  
william.akins@fisherbroyles.com

ATTORNEY FOR DEFENDANT

**CERTIFICATE OF SERVICE**

I hereby certify that on September 2, 2022, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, and also served the Plaintiff by U.S. Mail as follows:

DANIEL GRAHAM  
5812 Mossbrook Trl  
Dallas, Texas 75252

/s/ William Akins  
William J. Akins